

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WILLIE RAY SMITH,

Plaintiff,

v.

SUMMIT MIDSTREAM PARTNERS, LP,

Defendant.

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CIVIL ACTION NO. 3:19-cv-01841-S

DEFENDANT'S PROPOSED VOIR DIRE QUESTIONS

Defendant Summit Midstream Partners, LLC, by and through its undersigned counsel, hereby files its Proposed Voir Dire Questions pursuant to the Court's Procedures, the Local Rules of the Northern District of Texas, and the Federal Rules of Civil Procedure.

A. PRELIMINARY INFORMATION:

1. Did any of you know one another before assembling for this jury panel? If so, in what way?

2. Did any of you hear anything about this case before you came into the courtroom today? If so, what did you hear?

3. In this case:

4. Plaintiff Willie Ray Smith asserts claims of discrimination based on race and color. Specifically, he claims that he terminated because of his race and because he complained of discrimination during his employment. He also claims that he was passed over for a Lead Operator position due to his race.

- i) Defendant Summit Midstream Partners, LLC, is Mr. Smith's former employer. Summit Midstream asserts that it did not discriminate or retaliate against Mr. Smith and that it treated him fairly during his employment.
- ii) Based on these assertions by Mr. Smith and Summit Midstream, has anyone formed an opinion about this case or was there anything about these general descriptions that causes you to think that you would tend to believe or disbelieve one side or the other in this dispute?

5. Do any of you believe you may have knowledge of any facts pertaining to this case?

B. THE PARTIES:

6. Summit Midstream provides natural gas, crude oil, and produced water gathering services to its customers pursuant to customer-specific agreements. Through a series of pipelines and "plants," Summit Midstream treats and transports gas from basins to various delivery points. Summit Midstream operates an Amine Treatment Plant in Venus, Texas, and a Compression Plant, located approximately 13 miles away from the Amine Plant. The main function of the operations at Summit Midstream's Amine Plant is to chemically remove CO₂ from the gas to achieve CO₂ levels at or below the amounts required by the terms of the applicable customer contract.

7. Would the fact that Summit Midstream's business operations relate to the oilfield services industry influence your ability to be fair and impartial in this case?

8. Have you, a family member, or a close friend worked for Summit Midstream? If so, in what capacity/position and explain that experience?

9. Have you, a family member, or a close friend ever worked for a company that makes composites, elastomers, or metal? If so, in what capacity/position and explain that experience?

10. Have you, a family member, or a close friend had business or personal dealings with Summit Midstream? If so, what were the nature of those dealings?

11. Have you, a family member, or a close friend had a bad experience with Summit Midstream? What was the nature of the bad experience?

12. Have you, a family member, or a close friend had a bad experience with any company that is involved in or provides services to oilfield companies? What was the nature of the bad experience?

13. Have you, a family member, or a close friend had any dispute or claim against Summit Midstream? If so, please state the nature of the dispute.

14. Have you heard or read anything about Summit Midstream that would prevent you from rendering a fair, impartial decision regarding claims made against it?

15. Do any of you believe for any reason that Summit Midstream generally discriminates against its employees?

16. Do you have any religious convictions or beliefs that may interfere with your rendering a fair and impartial verdict concerning the claims made against Summit Midstream?

17. In this case, Summit Midstream is represented by Arthur Lambert and Theanna Bezney of the law firm of Fisher & Phillips LLP. Do you know any of these people?

18. Have any of you or any member of your immediate family ever been represented by Fisher & Phillips LLP or do you otherwise have an opinion regarding this law firm?

19. Do you know the Plaintiff, Willie Ray Smith or any member of his family? If so, please explain your relationship.

20. In this case, Mr. Smith is represented by James Polk. Do you know him?

21. Have any of you or any member of your immediate family ever been represented by Mr. Polk or otherwise have an opinion regarding his legal practice?

22. I will now read you a list of people who will potentially be witnesses in this case. [NAMES READ FROM WITNESS LISTS]. Please raise your hand if you know any of these witnesses.

C. PRIOR LITIGATION:

23. Have you, a family member, or a close friend ever brought a claim against an employer? If yes, please provide some background information including:

- i) the name of the employer;
- ii) the type of claim brought;
- iii) the outcome of the matter
- iv) were you satisfied by the outcome;
- v) when this occurred;
- vi) how did the company respond;
- vii) how did it make you feel?

24. Have you, any member of your immediate family or a close friend ever considered filing a lawsuit against an employer and chosen not to do so? What type of claim would you have filed?

25. Have you, a family member, or a close friend been a defendant in a lawsuit? If yes, please provide some background information including:

- i) the name of the plaintiff;
 - ii) the type of claim brought;
 - iii) did the case go to trial and, if so, was a verdict reached;
 - iv) were you satisfied by the outcome;
 - v) when this occurred;
 - vi) how did the company respond;
 - vii) how did it make you feel?
26. Have you ever been called for jury duty before today?
27. Have any of you actually served as a juror in a civil case in the past?
- i) If yes, how many times?
 - ii) What type of case(s)?
 - iii) Did you reach a verdict?
 - iv) Would anything that occurred in that case affect your ability to be fair and impartial in this case?
28. Have you ever been a witness in a lawsuit?
- i) If so, what were the circumstances of that case?
 - ii) Would anything that occurred in that case affect your ability to be fair and impartial in this case?
29. Do you feel you have been discriminated against by an employer?
- i) If so, what happened and what kind of discrimination did you perceive?
30. Have you ever been subjected to illegal harassment in the workplace based on religion, national origin, or race?
- i) If so, did your employer have some way for you to report those kinds of

issues to upper management or human resources? What were the methods of reporting that were made available to you?

- ii) If you reported the conduct you believed to be illegal harassment, what was your employer's response? Were you happy with the response?

D. EMPLOYMENT EXPERIENCES

31. Have you ever held a job where you were responsible for supervising other employees? If yes, can you please tell us about that?

32. Have any of you had to discipline a co-worker for misconduct? If so, please explain.

33. Have you or a close family member ever been let go from a job? What were the circumstances? How long were you or your close family member unemployed? What did you or your close family member do to find a new job?

34. Mr. Smith was an "at-will" employee with Summit Midstream. Under Texas law an at-will employee like Mr. Smith has the right to quit his job at any time and for any reason and without prior notice, and similarly an employer like Summit Midstream has the right to terminate an employee at any time and for any reason and without prior notice.

- i) Does anyone not understand what it means to be an at-will employee?
- ii) Does anyone disagree with or dislike or oppose the fact that employers like Summit Midstream are legally allowed to terminate at-will employees at any time for any reason without notice?
- iii) Does anyone think that is wrong, or unjust, or would it make you more likely to find against Summit Midstream in this case?

E. DISCRIMINATION IN THE WORKPLACE

35. In making employment decisions, such as decisions about employee discipline or termination, what is more important, the employee's race or the employee's conduct?

- i) Is there anyone who thinks an employee's race excuses the employee's misconduct or poor performance?
- ii) Do you agree that employees should not receive special treatment from their employers because they are members of a protected class?

36. Have you, a family member, or a close friend ever been discriminated or retaliated against in the workplace? If yes, please provide some background information including:

- i) What happened and what kind of discrimination or retaliation did you perceive?
- ii) Whether you complained to management about the discrimination retaliation;
- iii) How management responded to your complaint;
- iv) The outcome and whether you were satisfied.

37. Have you, a family member, or a close friend ever been accused of discrimination or retaliation in the workplace? If yes, please provide some background information including:

- i) What happened and what were you accused of?
- ii) How management handled the accusation;
- iii) the outcome of the matter and were you satisfied.

38. Have you ever been treated unfairly by an employer? If so, please explain.

39. Have any of you—or a close friend or family member—ever been treated differently at work because of your race? Please explain.

40. Have any of you—or a close friend or family member—ever been paid less than another coworker because of your race? Please explain.

41. Have any of you—or a close friend or family member—ever witnessed someone complain of being discriminated against when, in your opinion, there was no discrimination?

i) Does anyone believe that if a person claims he or she was discriminated against, then there is automatically some truth to that claim?

42. Do you feel that just because Mr. Smith sued Summit Midstream that Summit Midstream or its managers probably did something wrong or illegal?

F. QUESTIONS RELATED TO THE LAW/DAMAGES

43. This is a case in which Mr. Smith's claims that he was discriminated against because of his race and retaliated against because he complained about discrimination. If you conclude from the evidence in this case that Summit Midstream did not discriminate or retaliate against him do any of you feel you may have difficulty returning a verdict for Summit Midstream, even if you personally feel sympathy for the plaintiff?

44. In deciding this case, will you follow the law that the Court instructs you to follow?

45. Will you follow the law that the Court gives you, even if you personally disagree with it?

46. Since Mr. Smith, as the Plaintiff, has accused Summit Midstream of wrong-doing, he carries what is known as the "burden of proof." This means that unless he proves every element of his lawsuit by a preponderance of the evidence. A preponderance of the evidence means that it is more likely than not that his claim is true. If he does not meet his burden of proof, you must find in favor of Summit Midstream. Is there anyone here who cannot require Mr. Smith to prove his claims by a preponderance of the evidence?

47. Is there anyone here who cannot find in Summit Midstream' favor if the evidence appears to be equally balanced between Mr. Smith and Summit Midstream?

48. If you conclude from the evidence in this case that Summit Midstream's actions and decisions were NOT because of Mr. Smith's race or because he complained about discrimination, but you still disagree with those actions and decisions, would you still find it difficult to return a verdict for Summit Midstream?

49. Is there anything you think the Court should know about the things that we have discussed or things that we have not discussed that could affect your ability to be a fair and impartial juror in this case?

50. Do you think lawsuits are important because they provide an opportunity to punish companies for misconduct?

51. Do you think Summit Midstream should pay Mr. Smith something, even if not owed, simply because you feel Summit Midstream can afford it?

52. Do you have any reservations about your ability to provide a company such as Summit Midstream with fair and impartial consideration of the evidence in this case?

Respectfully submitted,

/s/ Arthur V. Lambert

Arthur V. Lambert

Texas Bar No. 11841250

Theanna Bezney

Texas Bar No. 24089243

FISHER & PHILLIPS LLP

500 North Akard, Suite 3550

Dallas, Texas 75201

Telephone: (214) 220-9100

Facsimile: (214) 220-9122

alambert@fisherphillips.com

tbezney@fisherphillips.com

**ATTORNEYS FOR DEFENDANT
SUMMIT MIDSTREAM PARTNERS, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of March, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record, as follows:

James E. Polk II
417 N. 12th Street
Corsicana, Texas 75110
james@polklaws.net

/s/ Arthur V. Lambert
Arthur V. Lambert